

1811  
Publication No. 68  
March, 1945

# THE TAXATION OF HOSPITALS

Report Pursuant to Proposal No. 201  
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This report is intended to provide a factual source of information with regard to problems concerning which the General Assembly may be called upon to act. The research department of the Legislative Council is engaged in objective fact-finding under the general supervision of members of the Council, who also serve in the General Assembly. No recommendations for consideration of proposed legislation or particular policies are made by the research department.



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## THE TAXATION OF HOSPITALS

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Some writers in discussing the question of tax exemption versus subsidies suggest that subsidies are preferable for the reason that the amount of the bounty should depend on such factors as the actual needs of the favored institution, or the extent of its benefactions rather than the value of its property. Further, a direct subsidy is more quickly detected by the public, is more easily understood, and is more certain as to cost. Also a direct subsidy can be allocated in such way that the areas of benefit, need, and cost can be more equitably balanced.<sup>1</sup>

1. Boston Safe Deposit & Trust Company v. Commissioners of Corporations and Taxation, 174 N.E. 114, (Mass., 1929).

2. Texas Law Review, vol. 7, p. 50 (1920).

3. California Law Review, vol. 21, p. 16 (1933).



## THE TAXATION OF HOSPITALS

Most schools, orphanages, and hospitals were originally operated by the church. Since these institutions rendered service that otherwise the state might have had to render through taxation it has been the custom to refrain from taxing these agencies. Tax exemption became a type of community endowment. Out of this situation arose the general principle that charitable institutions are exempted from taxation for the reason that they confer a benefit on the public, and relieve to some extent the burden imposed on the state of the care and relief of its citizens. Society thought that to compel these agencies, through taxation, to pay for the privilege of rendering such services was an unreasonable imposition.

These institutions were at first almost entirely community affairs but their growth in some cases has made them nation wide in scope. Thus, large portions of the social wealth are relieved of the tax burden leaving a diminishing portion to carry a constantly increasing load.

The courts have said that "An exemption from taxation is an extraordinary grace of the sovereign power and is not to be lightly inferred."<sup>1</sup>

It has also been stated that many legislatures have been generous in granting tax exemptions, considering them a type of subsidy given in lieu of cash contributions.<sup>2</sup> It would be constitutionally difficult for the state to grant subsidies to the exempted institutions and societies, especially religious societies, but the same result is reached through tax exemption. However, a subsidy or direct payment would be more visible and more easily evaluated than the invisible tax exemption.

There is no doubt that charitable institutions and societies have lightened the burden on the state and the state recognizes this fact by a reimbursement by way of tax exemption. It is possible that some charitable institutions are not fully reimbursed for their contributions to charity while others are over-remunerated. There are no data available on which to base such decision.

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3. California Law Review, vol. 21, p. 18 (1933).



### Amount of Tax-Exempt Property

There are no recent data on the amount of tax exempt property in Illinois, nor in practically any other state, for the reason that the evaluation of such property does not appear on the tax lists, and the institutions themselves do not publish such information for the public.

In 1922 the value of exempt realty in the United States was \$20,500,000,000, or 11.6% of the value of all the real property in the United States. This included all types of tax exempt property both government-owned and that owned by private organizations. Between 1890 and 1922 the total value of exempt property increased more rapidly than the total value of all realty. The increase in value of exempt property between 1890 and 1922 was 205% while the increase in value of all property was 180%.<sup>4</sup> In the last report available Iowa had the lowest percent of exempt property, 4.4%, while Wyoming had the highest, 55.4% which was tax exempt. In 1890 Illinois had \$186,001 in tax exempt realty and in 1922 it had \$1,041,845 that was exempt, or 8.3% of the total value of the realty within its borders.<sup>5</sup>

During the past few years the large increase in federal holdings has no doubt resulted in a more rapid increase in the amount of property which is exempt from taxation. There is no source of information as to the value of exempt personal property.

A survey of 52 cities of over 100,000 population was made by the Census Bureau in 1936. The ratio of tax exempt property to the taxable realty was 22.04%. Of the tax exempt property 28.6% was privately owned. The total exempt property owned by the public was \$7,912,985,000 and the holdings of private institutions and societies amounted to \$3,171,933,000. Of privately owned property, charitable institutions, which include hospitals, owned \$564,954,000 or 17.8% of the property exempted.<sup>6</sup>

As has been previously suggested in this report, complete, recent data as to value of tax exempt property and its classification is not available. Without this information any investigation similar to this can only result in a series of conflicting personal opinions none of which can be based on known facts.

It is reported that 32 states have no recent data on the valuation of exempt real estate. The State of Illinois is in this group. In some of these states attempts have been made to list tax exempt property and its value but such efforts have met such hostility on the part of tax exempt groups that the efforts were discontinued. Ten states have made spasmodic attempts to

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4. Minnesota Law Review, Vol. 18, p. 41, (1933-1934).

5. Wealth, Public Debt, and Taxation, 1922.

6. The American City, Vol. 53, p. 69 (June, 1938); United States Bureau of Census, Value of Exempt Real Property in Fifty-two Cities, 1936.

7. The Tax Magazine, Vol. 18, p. 126, (July, 1940).

8. The Tax Magazine, Vol. 18, p. 122, (July, 1940).



list such property but only six states have made any real progress in compiling such lists.<sup>7</sup> A summary of these lists follows in Table 1.

Table 1

### Tax Exempt Real Estate in Certain States

<u>State</u>	<u>Year</u>	<u>Total Exempt Real Estate</u>
Arizona	1938	\$ 29,879,000
Connecticut	1937	579,074,000
Louisiana	1937	283,433,000
New Jersey	1938	977,531,000
New York	1937	6,492,930,000
Pennsylvania	1935	1,771,919,000

What part of these exemptions is made up of private institution exemptions and what part is public is not given. Where the private institution exemptions are given there is no indication of what proportion is hospital property.

There is, however, some recent data available in a few states as to the ratio of tax exempt realty to taxable realty. This information is given in Table 2.

Table 2

### Estimated Ratio of Tax Exempt Realty to Taxable Realty

<u>State</u>	<u>Year</u>	<u>Ratio</u>
Connecticut	1937	19.02%
Louisiana	1937	30.58%
New Jersey	1938	20.30%
New York	1937	25.34%
Pennsylvania	1935	20.59%
Rhode Island	1938	20.40%

It is estimated that taking all the states together the ratio of private exempt property amounts to 37.5% of the total exempt property.<sup>8</sup> How this percent is divided among various exempt institutions and societies of a private nature is unknown.

7. The Tax Magazine, Vol. 18, p. 416, (July, 1940).

8. The Tax Magazine, Vol. 18, p. 422, (July, 1940).



California, before submitting a tax exemption amendment to its constitution in 1945, sent a questionnaire to all hospitals and other charitable and religious organizations in the state inquiring as to the assessment of taxes paid by them. The replies to this questionnaire indicated that the total annual property tax paid by them was approximately \$760,000. There was no break-down in the replies that would indicate the amount of taxes paid by hospitals alone.<sup>9</sup>

Formal application for exemption of institutional real property appears to be required by law in only nine states.<sup>10</sup> But in most of these states exceptions exist. In Illinois written application for exemption is apparently required by law only in Cook County.<sup>11</sup> In Illinois the application is made to the County Board of Review or Board of Appeals.

It is the practice in Illinois for the assessor to omit from his list property which he believes to be exempt or to list such property without valuation. If he assesses property which deems itself to be exempt, application can be made to the County Board of Review, or Board of Appeals, for exemption. If the board denies the exemption recourse may be had to the courts. If the board grants the petition of exemption it must be referred to the Illinois Tax Commission (now the Department of Revenue) for approval or disapproval.<sup>12</sup>

A large number of states require the assessor to list all exempt property on the assessment roll. This is for the purpose of preventing accidental or wilful omission of taxable property, and also to produce statistics which are helpful in appraising exemption policies.<sup>13</sup>

#### Provision of Free Beds

There is a surprising scarcity of data on the question of how much actual charity is dispensed by the various hospitals. The public is left entirely in the dark. It is reported that in Illinois, during the year 1935, general hospitals of the non-profit type received 67.4% of their income from patients who paid for their care, 22.6% from tax sources, and 10.0% from endowment and other sources.<sup>14</sup>

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9. Letter from California State Board of Equalization to Illinois Legislative Council, dated January 2, 1945.

10. Alabama, California, Connecticut, Illinois, Indiana, Massachusetts, New Mexico, Texas, Washington.

11. Ill. Rev. Stat., 1943, ch. 120, par. 598.

12. Ill. Rev. Stat., 1943, ch. 120, par. 589, 600.

13. Alabama, Arkansas, Colorado, Connecticut, Louisiana, Massachusetts, Minnesota, Mississippi, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Washington, West Virginia.

14. Business Census of Hospitals, 1935, Supplement No. 154, Public Health Reports.



Each year various governmental units have interested themselves in various forms of charitable relief and assistance. The state and the federal government grant aid to mothers, children, and the blind in various ways which include certain payments to medical institutions and for necessary hospitalization. The state pays for medical assistance and hospitalization of crippled children. In administering old age assistance certain payments are made for hospital or medical attention. The county pays for hospitalization of children that are its wards or are in the custody of the county or juvenile courts. During the 10 months, February 1, 1944 to December 1, 1944, one township alone, in the City of Springfield, paid approximately \$64,706.16 for hospital services rendered to residents of the township. Another township in the same city paid during the year of December 1, 1943, to December 1, 1944, the sum of \$18,415.12. These payments, plus other payments by various governmental units, amount to a rather substantial sum. These payments relieve the charity load on charitable institutions and the amount and scope of such payments is constantly increasing. It seems to be the policy of society to pay for the services rendered to its members rather than depend on the ministration of charity. How much pure charity is left to be provided for by the exempted institutions is problematical.

#### Tax Exemption in Other States

The tax exemption laws of the various states are almost unanimous in exempting both the land and buildings of charitable institutions from taxation. Indiana and North Dakota, however, do not exempt the land. In deciding whether the institution is tax exempt or not the general test is the use to which it is put.

Three states specifically exempt hospitals in their constitutions,<sup>15</sup> while nineteen exempt hospitals by specifically naming them in their statutes.<sup>16</sup> The situation in the various states is indicated in Table 3.

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15. Minnesota, Montana, Virginia.

16. Alabama, Arizona, Connecticut, Idaho, Maryland, Mississippi, Nevada, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, West Virginia, Wyoming.



Table 3

## Constitutional and Statutory Exemption of Hospitals from Taxation

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Alabama	The state shall not tax lots (area described) with buildings thereon if used exclusively for charitable purposes. (Sec. 91).	All property, real or personal, used exclusively for hospital purposes, to amount of \$20,000 is exempt if such hospital maintains wards for charity patients and treatment of charity patients constitutes at least 15% of the business of such hospital. (Ala. Code of 1928 Ann.—Sec. 3022).	Gray et al v. State et al, 153 So. 767 (1934).
Arizona	There may be exempted from taxation property of educational, charitable, and religious associations or institutions not used or held for profit. (Article IX, sec. 2).	Hospitals and the lands appurtenant with their fixtures and equipment are exempt if not used or held for profit. (Rev. Code of Arizona, 1928. Sec. 3066, cl. 3).	Lois Grunow Memorial Clinic v. Oglesby, County Treasurer, et al. 22 Pac. (2nd) 1076 (1933).
Arkansas	Buildings, grounds, and materials used exclusively for public charity are exempt. (Article XVI, sec. 5 (h)).	All buildings belonging to institutions of purely public charity with land actually occupied, not leased or otherwise used with a view to profit, and all money and credits used to sustain and belonging exclusively to such institution is exempt. (Statutes of Arkansas, 1937, section 13603).	Hot Springs School Dist. v. Sisters of Mercy Female Academy of Little Rock, Ark. 106 S.W. 954 (1907).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
California	Proposed an amendment to the state constitution to authorize the legislature to exempt all or any portion of property used exclusively for religious, hospital, or charitable purposes, not for profit. (Adopted Nov., 1944). (Laws of 1943, p. 3342).	No statutory provisions.	No case.
Colorado	Property used for religious worship, for schools, or for strictly charitable purposes are exempt. (Article X, sec. 5).	Lots with buildings thereon if used for strictly charitable purposes are exempt. (Colorado Statutes, Ann., 1935, ch. 142, sec. 22, cl. 4).	Bishop and Chapter of Cathedral of St. John the Evangelist v. Treasurer of City and County of Denver. (86 Pac. 1021, 1906).
Connecticut	No provisions as to exemptions in the constitution.	Subject to Sec. 1165, all property of, or held in trust for, any hospital society or sanitarium, which is supported wholly or in part by state appropriations is exempt. (General Statutes of Connecticut, 1930. Sec. 1163 (14).	Manresa Institute et al v. Town of Norwalk. (23 A. 1088, 1891).
Delaware	General Assembly may exempt such property as will best promote the general welfare. (Article VIII, section 1).	All property used wholly or in part by charity is exempt. Exemption of Homes for Incurables limited to \$15,000. (Revised Code of Delaware, 1935. Sec. 1258).	Trustees of New Castle Commons v. Megginson. (77 A. 565, 1910).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Florida	Property may be exempted by law for educational, literary, scientific, religious, or charitable purposes. (Article IX, sec. 1).	Property of educational, literary, benevolent, fraternal, charitable, and scientific institutions, provided not more than 75% of the floor space is rented and all the profits are used for the purposes of the institution. (Florida Statutes, 1941. Ch. 192, sec. 192.66).	State ex rel Miller v. Doss, County Tax Assessor. 2 So. (2nd) 303 (1941).
Georgia	The General Assembly by law may exempt all institutions of purely public charity. (Article VII, sec. 2, par. 2).	Exempts all institutions of purely public charity. (Georgia Code of 1926, sec. 998). Specific and occupation tax in addition to any ad valorem tax to be levied upon hospitals and sanitariums conducted for gain. If within 5 miles of city of 20,000 or more, tax of \$100. If within 5 miles of city of less than 20,000 a tax of \$25, not to apply to public hospitals maintained by municipal corporations for charitable purposes only. (Laws of 1935, p. 50).	Richardson Tax Collector v. Executive Committee of Baptist Convention. 169 S.E. 18 (1933).
Idaho	All taxes to be uniform but the legislature may allow exemption from time to time. (Article VII, sec. 5).	Hospitals and their furniture and equipment, owned, controlled, and operated by any religious or benevolent corporation or society, with the necessary grounds used therewith, and from which no profit or gain is derived is exempt. (Idaho Code, Ann., 1932, sec. 61-105, cl. 12).	Bristine et al. v. Bassett et al., Board of Equalization, 272 Pac. 696 (1928).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Illinois	Property used exclusively by agricultural, horticultural, school, religious, cemetery, and charitable purposes may be exempt by general law. (Article IX, sec. 3).	All property of institutions of public charity, all property of beneficent and charitable organizations, and all property of old peoples' homes, when such property is actually and exclusively used for such purpose and not leased or used for profit is exempt. (Illinois Revised Statutes, 1943, ch. 120, sec. 500, cl. 7).	
Indiana	General Assembly by law may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes. (Article X, section 1).	Every building, or part thereof, used and set apart for educational, literary, scientific, religious, or charitable purposes is exempt. Land limited to 40 acres. (Burn's Indiana Statutes, Annotated, 1933, sec. 64-201, cl. fifth). Sec. 64-221. Every city and town shall be exempt on its municipally owned hospitals. (Burn's Indiana Statutes, Annotated, 1933, sec. 64-221).	Barr et al. v. Geary, County Auditor, et al., 142 N.E. 622 (1924).
Iowa	No provision as to exemptions in the constitution.	All grounds and buildings used by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies, solely for their appropriate objects, not for profit, are exempt. Land owned limited to 320 acres. (Code of Iowa, 1939, section 6944, cl. 9).	Readlyn Hospital v. Hath, County Treasurer, et al. 272 N.W. 90 (1937).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Kansas	All property used exclusively for literary, educational, scientific, religious, benevolent, and charitable purposes shall be exempt. (Article XI, sec. 1).	Property and buildings used for literary, educational, scientific, religious, benevolent, and charitable purposes is exempt. Exempt land for charitable purposes limited to 5 acres. (General Statutes of Kansas, Annotated, 1935, sec. 79-201).	Nuns of Third Order of St. Dominic v. Younkin, et al. 235 Pac. 869 (1925).
Kentucky	Institutions of purely public charity shall be exempt. (Section 170).	No statutory provisions.	Mason County et al. v. Hayswood Hospital of Maysville, 179 S.W. 1050 (1915).
Louisiana	The legislature shall exempt property devoted to charitable undertakings, but not if used for profit or income. (Article X, section 4).	No statutory provisions.	State ex rel. Cunningham, Attorney General, et al. v. Board of Assessors of Parish of New Orleans. 26 So. 872 (1898).
Maine	No provisions as to exemptions in the constitution.	The real and personal property of all benevolent and charitable institutions incorporated by the state are exempt. (Rev. Stat. of Maine, 1930, ch. 13, sec. 6, cl. 3).	Osteopathic Hospital of Maine, Inc., v. Inhabitants of City of Portland, 26 A. (2nd) 641, (1942).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Maryland	No provisions as to exemptions in the constitution.	Buildings, equipment, and furniture of hospitals, asylums, charitable or benevolent institutions, no part of the income of which insures to the benefit of any private shareholder or individual, and ground not to exceed 40 acres in area appurtenant thereto and necessary for the respective uses thereof is exempt. (Annotated Code of Maryland, 1939, Article 8, section 7, clause 7).	The County Commissioners of Frederick County v. The Sisters of Charity of St. Joseph, 48 Md. 34 (1877).
Massachusetts	No provisions as to exemptions in the constitution.	Personal property of literary, benevolent, charitable, and scientific institutions and the real estate occupied by them or their officers for the purposes for which they are incorporated are exempt.  (a) If any of the income or profits are divided among stockholders or members, or used for other than literary, educational, benevolent, charitable, scientific, or religious purposes, its property is not exempt. (Annotated Laws of Massachusetts, ch. 59, sec. 5).	New England Sanitarium v. Inhabitants of Stoneham, 91 N.E. 385 (1910).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Michigan	No provisions as to exemptions in the constitution.	Real estate, buildings, and other property of library, benevolent, charitable, educational, or scientific institutions, and memorial homes of World War veterans, while occupied solely for the purposes for which they were incorporated, are exempt. (Laws of Michigan, Second Extra Session, 1942, p. 47).	Gundry, Auditor General v. R. B. Smith Memorial Hospital Association, 291 N.E. 385 (1910).
Minnesota	Public hospitals shall be exempt. (Article IX, section 1).	(3) All public hospitals are exempt. (Minnesota Statutes, 1941, sec. 272.02).	State v. Wilman Hospital, Inc. et al., 2 N.W. (2nd) 564 (1942).
Mississippi	No provisions as to exemptions in the constitution.	(f) All property belonging to religious, charitable, or benevolent organizations, which maintain one or more charity wards, and when entire income is used for the purpose thereof, is exempt. (Mississippi Code, 1931, sec. 3108).	City of Natchez v. Natchez Sanitorium Benevolent Association, 2 So. (2nd) 798 (1941).
Missouri	Lots within town or 1 mile thereof to the extent of 1 acre or lots more than 1 mile distant to extent of 5 acres, with buildings thereon, may be exempted from taxation, when used exclusively for religious worship, for schools, or for purposes purely charitable.	Lots within town or 1 mile thereof to the extent of 1 acre or lots more than 1 mile distant to extent of 5 acres, with buildings thereon, are exempted from taxation, when used exclusively for religious worship, for schools, or for purposes purely charitable. (Rev. Stat. of Mo., 1939, sec. 10937).	The State ex rel. Alexian Brothers Hospital v. Powers, 74 Mo. 476 (1881).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Montana	The legislature may exempt property as may be used exclusively for hospitals and not used or held for private or corporate profit. (Article XII, section 2).	The property used exclusively for hospitals and places of burial and not used for private gain or corporate profit is exempt. (Rev. Codes of Montana, 1935, sec. 1998).	Montana Catholic Missions, S.J. v. Lewis and Clarke County et al., 35 Pac. (2nd) 2, (1893).
Nebraska	The legislature may by general law exempt property owned by and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit. (Article VIII, sec. 2).	The following property shall be exempt from taxation:---(2) property owned by and used exclusively for educational, religious, charitable, and cemetery purposes when such property is not owned or used for financial gain or profit. (Compiled Statutes of Nebraska, 1929, sec. 77.202).	St. Elizabeth Hospital v. Lancaster County et al. 189 N.W. 981 (1922).
Nevada	Legislature may exempt by law property used for municipal, educational, literary, scientific, or other charitable purposes. (Article X, section 1).	Hospitals and asylums may incorporate and the property of such institution on which its buildings stand, together with the buildings shall while occupied for its objects and purposes be exempt. (Nevada Compiled Laws, 1929, section 3254).	No case.
New Hampshire	No provision as to exemptions in the constitution.	The personal property of charitable and religious societies and the real estate owned and occupied by them are exempt if incorporated or organized within the state and such property is not used for profit or any other purpose. (Public Laws of New Hampshire, 1926, ch. 60, sec. 22).	Young Men's Christian Assn. v. City of Keene, 46 A 186 (1900).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
New Jersey	No provisions as to exemptions in the constitution.	All buildings actually and exclusively used for charitable or hospital purposes if incorporated or organized under the laws of this state and the land upon which they are erected, together with their furniture and fixtures are exempt if the whole income is used for such purposes.	Denville Township v. St. Francis Sanitarium, 98 A 254 (1916).
New Mexico	All property used for educational or charitable purposes is exempt. (Article VIII, section 3).	No statutory provisions.	Opinion of Attorney General, 1912-1913, p. 36. 1914 - p. 225.
New York	Exemptions from taxation may be granted only by general law and may be altered or repealed except those exempting real or personal property used exclusively for religious, educational, or charitable purposes, as defined by law, and not operated for profit. (Article XVI, section 1).	The real property of a corporation or association organized exclusively for hospital or infirmity purposes is exempt if no officer, member, or employer thereof receives no pecuniary profit except reasonable compensation. If property is used for other purposes it is not exempt. (Laws of New York, 1943. Tax Law, sec. 4, cl. 6).	People ex rel. Doctor's Hospital, Inc., v. Sexton et al. 48 N.Y.S. 201 (1944).
North Carolina	The General Assembly may exempt property held for educational, scientific, literary, charitable, or religious purposes. (Article V, section 5).	Real property belonging to, actually and exclusively occupied by hospitals and nurseries not conducted for profit. (North Carolina Code of 1939, Ann., Sec. 7971 (129), cl. 5.	Piedmont Memorial Hospital, Inc. v. Guilford County et al. 12 So. E. (2nd) 265, (1940).

Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
North Dakota	The Legislative Assembly shall by general law exempt from taxation property used exclusively for school, religious, cemetery, or charitable purposes. (Article XI, section 173).	All buildings and contents thereof, belonging to institutions of public charity, including public hospitals under the control of religious or charitable societies, used wholly or in part for public charity, not leased or otherwise used for profit is exempt. (Compiled Laws of North Dakota, 1913, 1925 Supplement, section 2078, cl. 8).	Engstad v. Grand Forks County et al. 84 N.W. 577 (1900).
Ohio	General laws may be passed to exempt burying grounds and institutions used exclusively for charitable purposes but all such laws to be subject to alteration or repeal. (Article XII, section 2).	Property belonging to institutions used exclusively for charitable purposes shall be exempt. (Throckmorton's Ohio Code Ann. Baldwin's 1936 ed., sec. 5353).	O'Brien, County Treasurer v. Physicians Hospital Assn., 116 N.E. 975 (1917).
Oklahoma	All property used exclusively for religious and charitable purposes shall be exempt. (Article X, section 6).	All property of any hospital organized and chartered as a non-profit or charitable institution under the laws of this state, provided the net income is used exclusively for charitable purposes and no profit to any private stockholder is exempt. (Oklahoma Statutes, 1941, Title 68-15.2, cl. 10).	In re Farmers' Union Hospital Assn. of Elk City, 126 Pac. (2nd) 244, (1942).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Oregon	No provisions as to exemptions in the constitution.	The personal property of all literary, benevolent, charitable, and scientific institutions, incorporated within the state, and such real estate belonging to such institution as shall be actually occupied for the purposes for which they are incorporated are exempt. (Oregon Compiled Laws, Ann., sec. 110-201, cl. 3).	Benton County v. Allen et al. 133 Pac. (2nd) 991 (1943).
Pennsylvania	The General Assembly may, by general laws, exempt from taxation institutions of purely public charity. (Article IX, section 1).	All hospitals, with grounds, maintained by public or private charity, provided all revenue is used for no other purpose is exempt from county, city, borough, town, township, road, poor, and school taxes. (Purdon's Pennsylvania Statutes, 1936, title 72, sec. 5020-204).	In re Appeal of Children's Hospital of Philadelphia, 82 Pa. Superior Ct. 196 (1923).
Rhode Island	No provisions as to exemptions in the constitution.	Hospitals for the sick and disabled are exempt. (General Laws of Rhode Island, 1938, ch. 29, sec. 2).	Woonsocket Hospital v. Quinn, City Treasurer, 173 A. 550 (1934).
South Carolina	The legislature may exempt by law, property used for municipal, educational, literary, scientific, or charitable purposes. (Article X, section 1).	All property belonging to institutions of purely public charity and used exclusively for the maintenance and support of such institutions is exempt. (Code of Laws of South Carolina, 1932, sec. 2578, cl. 10).	Ellerbe v. David, County Treasurer, et al. 8 S.E. (2nd) 518, (1940).

Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
South Dakota	The legislature shall by general law, exempt from taxation, property used exclusively for religious, cemetery, and charitable purposes. (Article XI, sec. 6).	All property belonging to charitable societies and used for charitable purposes are exempt. If only partly used for such purpose, it is partially exempt. (South Dakota Code of 1939, sec. 57.0311).	Lutheran Hospital Association of South Dakota v. Baker, County Treasurer, 167 N.W. 148 (1918).
Tennessee	The legislature may exempt property used for purposes purely religious, charitable, scientific, literary, or educational. (Article II, sec. 28).	The real estate owned by any charitable institutions and occupied by such institution, and its personal property, used for its purposes is exempt. If not used exclusively the tax to be prorated. (Tennessee Code of 1932-1937 Cum. Supp. (Michie), sec. 1085).	Baptist Hospital v. City of Nashville, 3 S.W. (2nd) 1059, (1928).
Texas	The legislature may exempt the property of an institution of purely public charity. (Article VIII, sec. 2).	All buildings belonging to institutions of purely public charity, together with the land, not used for profit is exempt. (Vernon's Texas Code, 1936, sec. 7150, cl. 7).	City of Longview v. Markham - McRae Memorial Hospital, 152 S.W. (2nd) 1112 (1941).
Utah	Lots with buildings used exclusively for either religious worship or charitable purposes are exempt. (Article XIII, sec. 2).	Lots with buildings thereon used exclusively for either religious worship or charitable purposes and not held or used for private or corporate profit are exempt. (Rev. Stat. of Utah, 1933, sec. 80-2-1).	William Budge Memorial Hospital v. Maughan, County Treasurer, 3 Pac. (2nd) 258, (1931).



Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Vermont	No provisions as to exemptions in the constitution.	Real and personal property granted, sequestered or used for public, pious, or charitable uses is exempt. Charitable use means -- hospital and lands used for lawn, playgrounds, and glebe lands. (Public Laws of Vermont, 1933, sec. 590 and sec. 592).	St. Alban's Hospital v. Town of Enosburg et al. 120 A. 97, (1923).
Virginia	Real estate belonging to, actually and exclusively used by, and personal property including endowment funds belonging to hospitals and nunneries, conducted not for profit but exclusively as charity, are exempt. (Virginia Code of 1942, Tax Code Appendix, sec. 435 (e)).	Real estate belonging to, actually and exclusively used by, and personal property including endowment funds belonging to hospitals and nunneries, conducted not for profit but exclusively as charity, are exempt. (Virginia Code of 1942, Tax Code Appendix, sec. 435 (e)).	Commonwealth v. Lynchburg Y. M. C. A., 80 S.W. 589 (1913).
Washington	Such property as the legislature may by general law provide shall be exempt. (Article VII, section 1).	Hospitals for the care of the sick and all income and profits which after paying expenses that are devoted to the purposes of such institution are exempt. (Pierce's Code of Washington, 1939, sec. 6882-7, cl. fourth).	In re Rust's Estate, 12 Pac. (2nd) 396 (1932).
West Virginia	Property used for educational, literary, scientific, religious, or charitable purposes may be exempted by law. (Article X, section 1).	The property of any hospital not held or leased out for profit is exempt. (West Virginia Code, 1937, sec. 678).	Reynolds Memorial Hospital et al. v. Marshall County Court, 90 S.E. 238 (1916).

Table 3 (cont'd.)

<u>State</u>	<u>Constitutional Provisions</u>	<u>Statutory Provisions</u>	<u>Typical Case</u>
Wisconsin	No provisions as to exemptions in the constitution.	Personal property owned by any religious, scientific, literary, or benevolent association which is used exclusively for the purposes of such association and the real property necessary for the location of the buildings of such association, if not leased or otherwise used for pecuniary profit, and not exceeding 10 acres is exempt. (Wisconsin Statutes, 1943, sec. 70.11, cl. 4).	Riverview Hospital v. City of Tomahawk, 11 N.W. (2nd) 188, (1943).
Wyoming	Certain specified property is exempt and such other property as the legislature by general law may designate as exempt. (Article XV, sec. 12).	Lands with buildings thereon used for orphan asylums or hospitals are exempt. (Wyoming Revised Statutes, 1931, sec. 115-104).	Harkin v. Board of Commissioners of Niobrara County, 222 Pac. 35, (1924).



The extent to which hospitals are tax exempt depends on the language used or lack of language in the various state constitutions. These provisions are strictly construed by the courts. With the exception of Minnesota, Montana, and Virginia, the constitutional exemption provisions do not refer to hospitals by name but usually use the more general term "charitable" or "benevolent" institutions. Seven states in their constitutions say the legislature "shall" exempt charitable or benevolent institutions.<sup>17</sup> Twenty-one states, however, in their constitutions merely authorize the legislature to exempt charitable or benevolent institutions from taxation by using the words "the legislature may exempt" such institutions from taxation.<sup>18</sup>

A few states grant tax exemption in a limited manner. Alabama exempts hospital property to the extent of \$20,000 provided at least 15% of the hospital facilities are used for charity patients. Florida provides that not over 75% of the floor space be used for profit and such profits must be used for the purposes of the institution. Georgia levies an occupational tax if the hospital is operated for gain. In Iowa, 320 acres is the limit of exempt land. Kansas places the limit of tax exempt land at 5 acres. Maryland taxes all land above 40 acres. Wisconsin allows an exemption of 10 acres.

Thirteen states make no reference to tax exemption of hospitals or charitable institutions in their constitutions, which leaves it entirely within the power of the legislature to exempt such property if they deem it expedient.<sup>19</sup>

The Constitution of Arkansas simply says that buildings, grounds, and materials used exclusively for public charity are exempt, while Kansas and Kentucky say such shall be exempt, and New Mexico says they are exempt.

The Constitution of California formerly prevented the legislature from exempting the property of hospitals and charitable institutions from taxation but in 1943 the California legislature proposed an amendment to the Constitution, to empower the legislature to exempt from taxation all or any portion of property used exclusively for religious, hospital, or charitable purposes.<sup>20</sup> This amendment was adopted on November 7, 1944.

In a few states the constitutional provisions are regarded as being self executing.<sup>21</sup>

17. Alabama, Colorado, Louisiana, North Dakota, Oklahoma, South Dakota, Utah.

18. Arizona, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Washington, West Virginia, Wyoming.

19. Connecticut, Iowa, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, Oregon, Rhode Island, Vermont, Wisconsin.

20. Laws of California, 1943, 3342.

21. Kentucky, Louisiana, New Mexico.



## Tax Exempt Property in Illinois

The Illinois Constitution provides that property used exclusively by agricultural, horticultural, school, religious, cemetery, and also charitable purposes may be exempted from taxation by general law.<sup>22</sup> The state statutes provide that all property of institutions of public charity, all property of beneficent and charitable organizations, and all property of old people's homes is exempt from taxation when such property is actually and exclusively used for such purpose and not leased or used for profit.<sup>23</sup> It is to be noted that in Illinois the General Assembly may exempt property used for charitable purposes if it sees fit. It has chosen to do so. The case law has explained and elaborated to some extent the intent of the legislature as expressed in its exemption legislation.

An early Illinois case decided that tax exemption was conferred only on corporations created by the laws of this state, and doubted whether exemption extended to institutions founded by private enterprise for the dispensation of private charities.<sup>24</sup>

A later case held that a public charity to be within the meaning of the statute must be one that extends to all members of the community and not confined to a particular class. The fact that it exacts pay from those able to pay for its services, and devotes all money thus received to carry out its purpose, does not remove it from the tax exempt class. It also held that a hospital open to all is a public charity and the fact that the number of charity patients is small does not affect its character as a public charity.<sup>25</sup>

It has also been said that the distinctive features of a charitable organization are that it has no capital stock and makes no provisions for dividends, or profits, but derives its funds mainly from public and private charity and holds them in trust for the charitable purposes expressed in its charter.<sup>26</sup>

Several tests have been suggested in order to decide whether a particular institution was a charitable institution or not. The more prominent tests are the (1) ownership test; (2) use test; (3) occupancy test; and (4) profits test. In fact all these tests have their proper use in testing any particular institution claiming tax exemption.

22. Constitution of Illinois, Art. XI, sec. 3.

23. Ill. Rev. Stat., (State Bar Assn. Ed.) 1943, ch. 120, sec. 500, cl. 7.

24. The People ex rel. Louis C. Huck v. The Western Seamen's Friend Society, 87 Ill. 246 (1877).

25. The Sisters of the Third Order of St. Francis, Appellants, v. The Board of Review of Peoria County, Appellee, 231 Ill. 317 (1907).

26. The Congregational Sunday School and Publishing Society, Appellant, v. Board of Review, Appellees, 290 Ill. 108 (1919).



In Illinois the "use test" seems to be predominant. The courts say that it is the primary use to which the property is put which determines whether it is exempt from taxation and the conclusion in each case depends on the facts. Incidental use of property for purposes other than charitable or religious does not destroy its claim of exemption. The court goes on to say that the fundamental ground upon which all exemptions are based is the benefit conferred upon the public, with consequent relief to some extent, of the burden on the state to care for and advance the interests of its citizens.<sup>27</sup> Tax exemption extends to homes maintained for the members of fraternal societies.<sup>28</sup>

### Conclusion

There is very little statistical material available on the value of hospital property. Nor is there any material available as to the amount of charity service rendered by them. In order for the state to properly appraise its exemption policy this data should be obtained. The taxing authority of the state should be advised as to the value of tax exempt property within its borders and to what extent the state is relieved of necessary social functions.

In the case of hospitals the state, in order to frame a legislative policy, should be informed as to the following items:

1. Description and value of real estate occupied by its buildings and all personal property used in the operation of the hospital.
2. Description, use, and value of other tax exempt real estate owned by the institution.
3. Description and value of buildings used in its operations.
4. Income from paying patients.
5. Income from donations and endowments.
6. Income from governmental agencies for services rendered.
7. Number of patients for the year and the number of charity patients.
8. Detailed operating expenses.
9. Expenditures for equipment and repairs.
10. Number of available beds (private and ward).
11. Number of beds reserved for charity patients.
12. Value of services rendered to charity patients.

With this information the taxing authority could weigh the benefit conferred by tax exemption on the reporting institutions against the benefit conferred by the reporting institutions on society, and determine whether such exemption should be continued as a general taxing policy or replaced by some other mode of compensation for services rendered.

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27. The School of Domestic Arts and Science, Appellant, v. P. J. Carr, County Collector, Appellee, 322 Ill. 562 (1926).

28. The People ex rel. Jay B. Morse, County Collector, Defendant in Error, v. The Grand Lodge of the Independent Order of Vikings, Plaintiff in Error, 354 Ill. 447 (1933).







